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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,729	11/13/2002	Ronald M. Buswell	BUR920020006	6166
23550	7590	09/08/2005	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			DOAN, DUYN MY	
75 STATE STREET			ART UNIT	
14TH FL			PAPER NUMBER	
ALBANY, NY 12207			2143	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/065,729

Applicant(s)

BUSWELL ET AL.

Examiner

Duyen M. Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **Detail Action**

*Claims 1-20 are amended.*

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 5, 7-10, 13-14, 17, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kosaka (us 2001/0056486) in view of Pullara et al (us 2003/0014526) (hereinafter Pullara).

As regarding claim 1, Kosaka disclosed a management program installed on the computer system which is responsive to the command from the management program (pg.1, par 8, 12-13). Kosaka disclosed a management command posted on the server, this command will pass to the client and the client will response to that command. Kosaka did not expressly disclose a client-server text messaging (CSTM) monitor installed on a computer system, the monitor configured to monitor a CSTM server for a command from management system posted thereto.

Pullara taught a client-server text messaging (CSTM) monitor installed on a computer system, the monitor configured to monitor a CSTM server for a command from management

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system posted thereto (see pg.2, par 27, secondary server actively monitor the primary server in order to determine the status of the primary server).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate monitoring the server in the method of Kosaka to have the (CSTM) monitor the server for the command posted from the management system because having the client monitoring the server for the command posted on the server would allow the client to response to the monitoring command to the server (see Kosaka pg.1, par 7-8).

As regarding claim 4, Kosaka-Pullara disclosed the command includes a preface, an identifier and an instruction for the management program (pg.1, par 7-8, 12-13).

As regarding claim 5, Kosaka-Pullara disclosed the CSTM monitor is also configured to post a response from the management program to the CSTM server (see Kosaka, pg.1, par 12).

As regarding claim 6, Kosaka-Pullara disclosed server includes a log program configured to record CSTM server activities (see Kosaka, pg.1, par 12-13, store the monitored resulted at the server).

As regarding claim 7, Kosaka-Pullara disclosed CSTM server is configured to receive command from an updated server (see Kosaka, pg.1, par 7-8, 12-13).

As regarding claim 8, Kosaka-Pullara disclosed the CSTM monitor is also configured to sense a problem in the computer system (see Pullara, pg.2, par 27, the secondary server monitor the first server to see if the first server can handle the request). The same motivation was utilized in claim 1, applied equally well to claim 8.

As regarding claim 9, Kosaka-Pullara disclosed the management program is idle until it received command (see Kosaka, pg.1, par 7-8, 12-13).

As regarding claim 10, the limitations are similar to the limitations of claim 1, therefore rejected for the same rationale as claim 1.

As regarding claim 13, the limitations are similar to limitations in claim 8, therefore rejected for the same rationale as claim 8.

As regarding claim 14, the limitations are similar to the limitations of claim 1, therefore rejected for the same rationale as claim 1.

As regarding claim 17, the limitation is similar to claim 4, therefore rejected for the same rationale as claim 4.

As regarding claim 18, the limitation is similar to claim 6, therefore rejected for the same rationale as claim 6.

As regarding claim 19, the limitation is similar to claim 8, therefore rejected for the same rationale as claim 8.

As regarding claim 20, the limitation is similar to claim 5, therefore rejected for the same rationale as claim 5.

Claims 2,3,11,12,15,16 are rejected under 35 U.S.C. 102(e) as being anticipated by Kosaka and Pullara as applied to claim 1 above, further in view of Busey et al (us 5764916) (hereinafter Busey).

As regarding claim 2, Kosaka and Pullara disclosed all limitations of claim 1 but the combination of Kosaka and Pullara did not expressly disclose the CSTM monitor and server are configured to function according to Internet relay chat protocol.

Busey taught the CSTM monitor and server is configured to function according to Internet relay chat protocol (see Busey col.3, lines 25-33).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate the IRC feature of Busey in the method of Kosaka-Pullara because having command communicate in IRC protocol would achieve real time communications (see Busey col.3, lines 37-45).

As regarding claim 3, Kosaka-Pullara-Busey disclosed the command is in form of a text string (see Busey col.5, lines 1-10). The same motivation was utilized in claim 2 applied equally well to claim 3.

As regarding claim 11-12, the limitations are similar to claims 2-3, therefore rejected for the same rationale as claim 2-3.

As regarding claim 5-16, the limitations are similar to claims 2-3, therefore rejected for the same rationale as claim 2-3.

### ***Response to Arguments***

Applicant's arguments with respect to amended claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

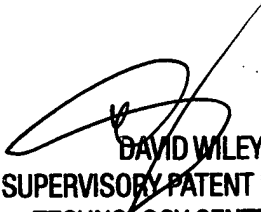
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner  
Duyen Doan  
Art unit 2143



DAVID WILEY  
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